

INITIAL STATEMENT OF REASONS

Adoption of CCR Section 559.

Disclosure of Placement Agent Fees, Gifts and Campaign Contributions

SPECIFIC PURPOSE OF THE REGULATION:

In the fall of 2009 Assembly Bill 1584 was passed by the Legislature and signed into law by the Governor. Assembly Bill added Government Code Section 7513.85 which requires the California Public Employees' Retirement System (CalPERS) to adopt a policy requiring the disclosure of payments to placement agents in connection with CalPERS' investments with external managers by June 30, 2010. This regulation is being proposed to comply with the new Government Code requirement.

The proposed regulation will add transparency to the CalPERS Investment decision making process by requiring the disclosure of the existence of relationship between CalPERS managers (defined as External Managers) and placement agents and the fees that are paid to these placement agents. The proposed regulation will help ensure that CalPERS investment decisions are consistent with investment policy and fiduciary responsibilities, to increase the pool of information available to CalPERS Board members, staff and consultants when evaluating an investment opportunity, and to help prevent impropriety and the appearance of impropriety and to provide transparency and confidence in CalPERS investment decision-making processes.

ALTERNATIVES TO THE REGULATORY ACTION AND CALPERS' REASONS FOR REJECTING THOSE ALTERNATIVES:

Government Code Section 7513.85 mandates adoption of the proposed regulation subject to the CalPERS Board of Administration's determination, made in good faith, that such action is consistent with the fiduciary responsibilities' of the Board of Administration as described in Section 17 of Article XVI of the California Constitution. As drafted, the proposed regulations are consistent with Board of Administration's fiduciary responsibilities. See subsection (d) of Government Code Section 7513.85.

ALTERNATIVES TO THE REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES:

Given the significant public policy issues implicated by the policy no reasonably alternatives are available that would lessen the impact on small businesses.